
Status & Remarks

The application presently contains the following claims:

<i>Independent Claim #</i>	<i>Dependent Claim #s</i>
1	2-9
10	11-19
20	21-28
29	30-37
38	(withdrawn)
39 (withdrawn)	40-42 (withdrawn)

No claims are amended in this amendment response. The applicant's attorney provisionally elects the invention defined by the claims of Group I (claims 1-37) and claims 38-42 are provisionally withdrawn, subject to reconsideration by the examiner, the elected claims 1-37 being made with traverse.

The examiner has represented that the patent application as filed contains three inventions: namely

- (I) Claims 1-37 drawn to a container in class 229, subclass 117.190;
- (II) Claim 38, drawn to a method in class 493, subclass 52; and
- (III) Claims 39-42 drawn to a device in class 292, subclass 279.

The examiner has provided support for the restriction requirement between Inventions I and II in that the invention could be used to make another materially different product. Support for this was represented to be the fact that the container could be closed from the other end. The applicant's attorney would respectfully request the examiner to reconsider this position in light of the following observation. The product simply would not work in any reasonable manner if the container were opened from the bottom. The contents would simply fall to the floor, thereby damaging the product contained therein. However, more persuasively, there is no requirement that the bottom portion of the container have flaps as illustrated for example, in FIG. 3. If there are no flaps, the invention is inoperative. It is possible for a container bottom to be cut from a piece of cardboard in which the bottom is a single flap which is taped closed. The invention of the applicant would not work in such a configuration. It is additionally submitted that since the geometry of the flaps as well as the inter-relationship between the first and second members of the closure device, will require the examiner to

look in essentially the same art groups, and therefore, no significant amount of additional searching will be required. The examiner is respectfully requested to consider the merits of this argument and traversal of the restriction of the inventions of Groups I and II.

The examiner has additionally restricted the inventions of Group I and III indicating that they are related as combination and subcombination. The applicant's attorney does concur with that part of the analysis. However, it is respectfully submitted that the subcombination has separate utility in devices which the examiner has offered as locking devices on a door. With all due respect, the subcombination is essential to the combination. The details of the subcombination are found in the independent claims of the combination, and in those instances, the restriction requirement is indicated to NOT be applicable. This is clearly taught in MPEP 806.05(c)(II). The examiner is respectfully requested to review this section for the applicability to the instant invention. It is additionally submitted that since the geometry of the locking device by itself as well as its use with a carton will require the examiner to look in essentially the same art groups, and therefore, no significant amount of additional searching will be required. The examiner is respectfully requested to consider the merits of this argument and traversal of the restriction of the inventions of Groups I and III.

The examiner has indicated that the application contains claims directed to the following patentably distinct species of the claimed invention:

Group 1: Figures 1-4; and

Group 2: Figure 5.

The applicant's attorney provisionally elects Group 1, Figures 1-4 for initial examination thereby complying with the requirements under 35 U.S.C. §121.

The examiner has represented that currently, no claim is generic. With due respect for the position advanced by the examiner, the applicant's attorney represents that independent claims 1, 10, 20 and 29 are generic to both species identified above. Only withdrawn claim 42 is specific to the non-elected specie. Pending claims 1-37 read on the specie identified as Group 1 above.

Request for Reconsideration

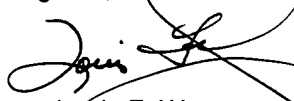
Applicant believes that all independent claims clearly define over the prior art and that the distinctions between the present invention and the prior art would not have been obvious to one of ordinary skill in the art. Additionally, the remaining dependent claims, by the limitations contained in the base independent claims, are felt to be patentable over the prior art by virtue of their dependency from independent claims which distinguish over the prior art of record. All pending claims are thought to be allowable and reconsideration by the Examiner is respectfully requested.

It is respectfully submitted that no new additional searching will be required by the examiner. A fee determination sheet is attached for this amendment response. The Commissioner is hereby authorized to charge any additional fee required to effect the filing of this document to Account No. 50-0983.

It is respectfully submitted that all references identified by the examiner have been distinguished in a non-obvious way. If the examiner believes that a telephonic conversation would facilitate a resolution of any and/or all of the outstanding issues pending in this application, then such a call is cordially invited at the convenience of the examiner.

Buckingham, Doolittle & Burroughs, LLP
50 S. Main St.
P.O. Box 1500
Akron, Ohio 44309-1500
(330) 258-6453 (telephone)
(330) 252-5452 (fax)
Attorney Docket #: 43064.0017

Respectfully Submitted,
Buckingham, Doolittle & Burroughs, LLP



Louis F. Wagner
LWagner@bdblawn.com
Registration No.: 35,730